

Via Fax No. (212) 805-6382

2707 Creston Ave., #2F  
Bronx, New York 10468  
Oct. 1, 2009

Hon. Victor Marrero  
United States District Judge  
500 Pearl Street, Suite 660  
New York, New York 10007

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/1/09  
Barone, et al.

Re: 09 Civ. 00650 (VM); Glatzer v. Hon.

Dear Judge Marrero:

Plaintiff Bernard H. Glatzer ("Glatzer"), Pro Se, respectfully attaches a copy of the State of New York Court of Appeals' Sept. 22, 2009 order denying Glatzer's appeal as of right pursuant to CPLR Sect. 5601(b)(1) Constitutional grounds "upon the ground that no substantial constitutional question is directly involved."

The court of appeals' construction of the first department's April 28, 2009 order (entered on April 30, 2009) is the exact opposite of this court's construction in its May 20, 2009 entered order (at 6) (a copy of which was submitted by Glatzer to the court of appeals) that "the Appellate Division ruled upon full consideration of all the issues presented to it -- by Glatzer's admission, solely the constitutional questions he had raised."

The court of appeals' construction, however, is the same as Glatzer's May 13, 2009 letter to this court that "the first department's order cannot be appealed to the New York Court of Appeals as of right under CPLR Sect. 5601(b)(1) Constitutional grounds, because the order did not 'finally determine (the) action('s) constitutional issues.'"

Please direct the Clerk of Court to enter this letter and attachment in the public file of this action. Thank you for your time and consideration in this matter.

Respectfully submitted,



Bernard H. Glatzer  
Plaintiff, Pro Se  
(718) 584-3998 (Tel. & Fax)

cc: Carol Fischer  
Anthony J. Tomari  
Fax No. (212) 416-8962

Request DENIED. These documents were not part of the public record before this Court entered prior to the Court's decision that is the subject of plaintiff's appeal. If plaintiff wishes to supplement the appellate record with documents that came into existence after this Court's decision, he SO ORDERED: should file them directly with the Clerk of the Second Circuit Court of Appeals.  
10-1-09  
DATE VICTOR MARRERO, U.S.D.J.